
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

BARRY DWAYNE MINNFEEL,

Plaintiff,

versus

KURT SISTRUNK,

Defendant.

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CIVIL ACTION NO. 1:13-CV-733

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Barry Dwayne Minnfee, an inmate confined within the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983.

The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The magistrate judge recommends this lawsuit be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See FED.R.Civ.P. 72(b)*. As plaintiff's allegations do not demonstrate he is in imminent danger of serious physical injury, and as plaintiff previously had four lawsuits dismissed as frivolous or for failure to state a claim, the magistrate judge correctly concluded plaintiff may not proceed with this lawsuit on an *in forma pauperis* basis.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 12th day of June, 2014.



MARCIA A. CRONE

UNITED STATES DISTRICT JUDGE